

**STATE BAR COURT HEARING DEPARTMENT
GUIDELINES FOR SCHEDULING AND CONDUCTING
EARLY NEUTRAL EVALUATION CONFERENCES (ENEC)
RULE 75, RULES OF PROCEDURE**

Scheduling:

- Use court approved form and submit to proper venue by facsimile or mail.
- Supply multiple dates agreed to by opposing counsel. In order to schedule the ENEC within 15 days, the court may not be able to accommodate requested dates.
- Case Administrators will notify requester of the assigned ENEC Judge and ENEC date.
- Requestor to notify opposing counsel – no written notice will be given by the court.
- The parties may not request a specific ENEC Judge.

Preparation for the conference:

- In addition to the required draft notice of disciplinary charges, the court requests the parties submit a brief statement of the case, including their settlement positions.
- Documents should be submitted as early as possible, but no later than **three (3) court days in advance** of the ENEC. The ENEC may be rescheduled if the ENEC Judge is not provided sufficient time to review the material.
- In order to increase productivity, the court encourages the parties to exchange documents prior to the ENEC.

Conduct of the Conference:

- The parties should be prepared to discuss the facts, the proposed charges and the potential for the imposition of discipline.
- The ENEC Judge will address settlement of the case, and therefore, the parties should be prepared to discuss settlement positions and should have settlement authority.
- In camera inspection of documents is permissible. While this may be necessary in some cases, the final evaluation may be based on information only available to one side which may lessen the opportunity for settlement.

Conclusion:

- If a settlement is reached, all material terms should be agreed upon at the ENEC. If a stipulation is to be filed, it should be directed to the ENEC Judge. If the stipulation is not filed by an agreed upon date, the ENEC Judge may schedule a continued ENEC prior to the filing of the notice of disciplinary charges.
- If no settlement is reached, the Office of Chief Trial Counsel may file a notice of disciplinary charges and should advise the opposing counsel when it will be filed.
- More than one ENEC may be necessary. Upon request of the parties, the ENEC Judge may permit a short continuance – the 15 day period set forth in Rule 75(a) will not apply.
- The ENEC Judge will not be the Trial Judge unless both parties waive the conflict. The ENEC Judge may serve as the Settlement Judge.

Effective February 15, 2004

Excerpt from the Rules of Procedure of the State Bar of California:

RULE 75. PRE-FILING, EARLY NEUTRAL EVALUATION CONFERENCE.

(a) If the Office of the Chief Trial Counsel and the member are unable to reach agreement on the resolution or disposition of a matter prior to the filing of a notice of disciplinary charges, an Early Neutral Evaluation Conference, conducted by a State Bar Court hearing judge, shall be held within fifteen (15) days of the request of either party.

(b) At the Conference, the Early Neutral Evaluation judge shall provide the parties with an oral neutral evaluation of the alleged facts and charges and the potential for the imposition of discipline. If a resolution of the matter which requires the approval of the Court is reached by the parties at the Conference, the Office of the Chief Trial Counsel shall document the resolution and shall submit it to the Early Neutral Evaluation judge for approval or rejection.

(c) In order for the Early Neutral Evaluation judge to provide a meaningful evaluation, the Office of the Chief Trial Counsel shall provide the Early Neutral Evaluation judge with a copy of the draft notice of disciplinary charges. Each party may also provide the Early Neutral Evaluation judge with such documents and information that the party believes supports his or her position. The Early Neutral Evaluation Conference shall be confidential and each party may designate any documents he or she provides for in camera inspection only and not to be exchanged with the opposing party. All documents provided to the Early Neutral Evaluation judge shall be returned to the respective parties at the conclusion of the Conference.

(d) Unless otherwise stipulated by the parties, the Early Neutral Evaluation judge shall not act as the trial judge in a subsequent proceeding involving the same facts.

(e) The provisions of this rule shall apply to all proceedings in which the notice of disciplinary charges was not filed on or before January 29, 1999.

Eff. February 1, 1999.

Source: New.